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ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

REPORT OF AN INQUIRY INTO THE BELLEVILLE POLICE FORCE

JULY 1994

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BELLEVILLE POLICE FORCE

Providing Answers

W.D. Thompson, O.C., Chairman

Karl R. Taylor, Member

James G. Taylor, Member

Commissioner's Office

Director's Office

Background

In 1989 and 1990, the Commission received a series of complaints about the Belleville Police Force. The Commission was asked to investigate the complaints and to report on its findings.

Over the course of the inquiry, the Commission received a number of suggestions for improving police services in Belleville.

The Commission's report contains a number of recommendations for improving police services in Belleville.

The Commission's report also contains a number of recommendations for improving the relationship between the police and the community.

The Commission's report is a comprehensive document that provides a detailed account of the inquiry and its findings.

The Commission's report is a valuable resource for the Belleville Police Force and the community.

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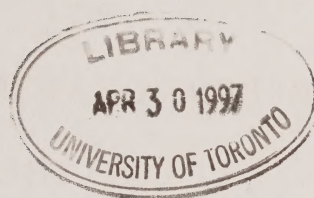
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ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

REPORT OF AN INQUIRY INTO THE BELLEVILLE POLICE FORCE

Presiding Members

W.D. Drinkwalter, Q.C., Chairman

Karl R. Fuller, Member

Raymond G. Leclair, Member

Commission Counsel

Dennis Brown

Background

In 1991 and 1992, the Commission received a series of complaints about the administration of the Belleville Police Force. Most of these complaints were from the Belleville Police Association and a group of police officers wives.

With one exception, the complaints deal with internal administrative matters only. The one exception was a complaint from the Belleville Business Improvement Area. This complaint dealt with the lack of patrol service in the downtown area of the city, and has since been resolved.

None of the complaints suggest that any members of the police force have committed any criminal offences, nor do they suggest that police service to the community is compromised in any way. The complaints deal solely with internal management practices.

At the time that these complaints were received the Ministry of the Solicitor General had scheduled an operational audit of the Belleville Police Force. The Commission asked the Ministry to advance the date of the audit. That was done and the audit was conducted over a four-week period involving three members of the Ministry's staff.

The Audit Report pointed out several shortcomings in the administration of the Belleville Police Force, including unresolved issues from the 1988 audit, and made more than 80 recommendations, from trite to serious situations.

The Audit Report was delivered to the Chief and Deputy Chief at the opening of a de-briefing session which lasted approximately eight hours. Neither the Chief nor the Deputy were given copies in advance and accordingly had no opportunity to digest the Report before discussing it with the Advisors who prepared it. The session was notably unsuccessful in that it did not result in a co-operative effort to implement the recommendations.


The Belleville Police Services Board responded in writing to this report, but not to the satisfaction of the Ministry. On August 10th, 1992 the Commission met to consider the complaints, the Audit Report, and the Board's response to it. At this meeting the Commission heard submissions from the Belleville Police Association, the Belleville Senior Officers Association, the Belleville Police Services Board and the Chief of Police. All of these people agreed that something had to be done, although the Chief of Police and the then Chair of the Board, Mr. Charles Misener, were not convinced that a public inquiry was the appropriate avenue. During the meeting a letter was delivered to the Commission from the Solicitor General in which he indicated that his Ministry "continues to have serious concerns with respect to the administration and management of the Belleville Police Force" and requested that this Commission "investigate, inquire into and report on the Belleville Police Force".

At the conclusion of the meeting of August 10th the Commission decided to:

"Investigate, inquire into and report on the administration of the Belleville Police Force including:

1. The conduct and performance of duties of the Chief of Police.
2. The conduct and performance of duties of the Deputy Chief of Police.
3. The conduct and performance of duties of the members of the Belleville Police Services Board".

The Terms of Reference for this Inquiry are reproduced as Appendix 1.



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THE INQUIRY (PART I)

Section 22(3) of the Police Services Act provides:

"At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry."

Pursuant to that subsection the Commission asked the Solicitor General to appoint counsel to assist in this Inquiry and as a result Mr. Dennis Brown, a senior member of the Attorney General's staff, was appointed.

Persons who have a substantial and direct interest in an inquiry such as this are entitled to be granted standing. Such status provides the right to call evidence, cross-examine witnesses, and make submissions.

The inquiry opened on Thursday, October 8th, 1992 and continued on October 28th, January 6th and 7th, 1993; February 22nd through the 25th and March 29th and 30th, June 24th, August 23rd and 24th, September 15th, December 13th through the 17th and February 3rd and 4th, 1994.

On the 8th of October the Commission dealt with certain procedural matters and granted standing to the Belleville Police Services Board, represented by Mr. William Hayter; Chief Robert Begbie, represented by Mr. Paul Bennett; Deputy Chief Wayne Tremble, represented by Mr. Allan Whyte; the Belleville Police Association, represented by its President, Constable John Walker; and the Belleville Senior Officers Association, represented by Inspectors Goodwin and Brennen.

During the audit the Ministry's Police Services Advisors, in addition to interviewing the Board and members of the Force, interviewed persons involved in the administration of justice and some concerned citizens. Part of this interview process was the holding out to these people a promise of confidentiality. This was an audit of a public, tax-supported, institution for the purpose of reporting on the operation of that institution. How such a report could be based upon confidential information we do not understand.

In any event, when this Commission sought to obtain the supporting documents behind the audit from the Ministry of the Solicitor General we were refused access. It was necessary for us to discover who the person was who in fact had possession of the documents and then to summons that person to appear before the Inquiry to deliver them. This was done.

Subsequently counsel to the Commission filed a copy of the Audit Report done by the Ministry and six volumes of other supporting material. These documents were all received subject to proof.

The Commission heard evidence from the three advisors who conducted the audit.

On March 29th and 30th, 1993 much time was spent in recess while the parties met to discuss procedural matters and, in particular, what might be done to expedite the process.

Following the lengthy discussions described above, the panel was presented with a proposal on behalf of the parties. The proposal was presented by Mr. Hayter on behalf of the Board with the concurrence of Commission counsel, counsel for the Chief, counsel for the Deputy and the Senior Officers Association. Constable Walker, speaking on behalf of the Belleville Police Association agreed to cooperate in the project but still maintained his desire to call evidence dealing with his allegation of "mismanagement" by the persons who are the subject of the Terms of Reference. This proposal, as amended by this Commission, is reproduced as Appendix II.

The Situation as of Mid 1993

Membership on the Police Services Board had almost completely changed in recent months. The last surviving member of the former Board was Mr. Charles Misener, the former Chair, and his appointment expired on the 17th of July, 1993. Mr. Misener was replaced as Chairman by Mr. Wolf Tausendfreund.

The Chief of Police retired on May 25th, 1993.

The Board retained the services of Peat Marwick Thorne, a large well-known management consulting firm, to assist them in the selection of a new chief. This Commission secured the services of Mr. John Kopinak, a former senior police officer, presently employed by the Ministry of the Solicitor General and Correctional Services. Mr. Kopinak worked with the consulting firm to advise them with respect to specific policing issues.

On June 24th, 1993 Mr. Wolf Tausendfreund, the Chair of the Board, reported that this process was complete and that an offer had been made to one of the candidates. The new Chief of Police, David Klenavic, assumed his duties in September 1993.

The Proposal

On March 30th, 1993 the Commission was of the opinion that the proposal put forward by the Board was likely to succeed in resolving most of the problems. With the consent of the Board we made two minor modifications to the proposal, accepted it, and marked it Exhibit 15. The Inquiry was then adjourned until June 24th. The Board was instructed to report on that day on the success, if any, being achieved.

In accordance with the proposal, the Commission asked the Halton Regional Police Services Board to second a senior officer to the Commission to act in the capacity of facilitator to assist the Belleville Police Services Board in restructuring the Police Force. The Halton Regional Police Services Board, in consultation with Chief of Police James Harding, seconded Superintendent Richard Kivell for this purpose. The Halton Board continued to pay Superintendent Kivell's salary and provided him with an automobile. His travelling expenses were paid by the Belleville Police Services Board.

The extent of co-operation among Ontario's more than 100 police forces is not generally appreciated. The level of co-operation and assistance among Ontario's police forces is substantial and we, as residents of this province, are the beneficiaries. We want to publicly acknowledge the assistance of the Halton Board and Chief Harding and to thank them for that assistance.

June 24th, 1993

Under the leadership of Mr. Tausendfreund the Board has taken control of the situation.

The facilitator, Superintendent Kivell, commenced work in April and reported to the Board at all of its regularly scheduled meetings and the Board, in turn, reported to Commission counsel monthly, in writing, on the progress. The Chair and Superintendent Kivell also reported to Belleville City Council at a public meeting of that body.

The Ministry's report on its audit of the Belleville Police Force indicated over 80 areas of concern. Mr. Tausendfreund, the Chair of the Board, reported to us that most of the concerns had been resolved or were in the process of resolution, but that some would require time to be completed.

The Senior Officers Association indicated that it is anxious to continue the process and to have all concerns resolved as soon as possible.

Constable Walker, the President of the Police Association, reported that the Association had met with the facilitator for almost five hours and discussed each of the issues separately. Constable Walker indicated that the Police Association was satisfied subject to three specific issues and one general concern. The specific concerns are:

1. The shift schedule.
2. The promotion process.
3. Training.

The general concern related to personnel problems and, in particular, "the conduct and performance of duties of the Deputy Chief of Police".

At the time, the three specific problems noted above were in the process of being resolved but remained outstanding.

On May 17th, 1993 the Belleville City Council passed a resolution urging this Commission to hear evidence "relating to those recommendations where the facilitator has been unable to reach a resolution satisfactory to all parties ...". This resolution we marked Exhibit #16.

On the 24th of June, Theresa Kelloway appeared before us and submitted that we ought to hear evidence with respect to all issues. She was also concerned that the Chief was given a substantial salary increase in June 1992, retired in May 1993, and was hired by the Board as a consultant for a further period of one year. Her submission implied that the arrangement with the Chief could be characterized as a "buy out package". A "buy out" is a common tool in both private and public sectors. It is often the least expensive option available to managers and is not, in and of itself, to be condemned.

In this Report references such as V. __ p. __ are to volume and page numbers of the Transcript of Evidence.

Mrs. Kelloway, who describes herself as "... a very concerned and observant taxpayer of this City," V. 21 p. 2774, filed a written submission on the last day of the Inquiry, and made an excellent oral presentation. Mrs. Kelloway summed up her view of the situation when she said "... I am amazed that the members of the Belleville Police Service ever had time to do any police duties, they were so involved in internal problems and court cases dealing with their

internal problems." V. 21 p. 2774. And later with these words "These officers, their wives and families, have suffered enough over the eight years prior to May of 1993." V. 21, p. 2775. Her concerns as a taxpayer were expressed thusly:

"As a taxpayer of this City, I resent greatly the apparent misuse of public moneys because of poor judgement calls. Three Belleville Police Service employees were fired, they had to be re-instated and they had to be compensated for the back pay and that came to approximately \$142,000.00 and we got absolutely nothing for those tax dollars. Plus, on top of that, there was hundreds of thousands of dollars spent on lawyers, mainly Toronto lawyers, much more expensive than we have here."

She also invited us to inquire into the arrangement that was made by the Board with the Chief which resulted in his retirement on May 25th, 1993.

THE ROLE OF THE ONTARIO CIVILIAN COMMISSION ON POLICE SERVICES

The Character of this Inquiry

Having been presented with this proposal we then turned our attention to the question of why this Commission exists. What is its proper role in the overall structure of policing in the Province of Ontario? We studied the Police Services Act and in particular those sections and subsections which refer to this Commission. Those sections are reproduced as Appendix III.

Section 25 of the Police Services Act provides that "this Commission may investigate, inquire into and report on, the conduct or the performance of duties of a municipal chief of police or other municipal police officer, ... or a member of a board;" Subsections 4 and 5 of that section provide:

"25.(4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,

- (a) demoted as the Commission specifies, permanently or for a specified period;

- (b) dismissed; or
 - (c) retired, if the member is entitled to retire.
- (5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member."

We note that this Commission has no jurisdiction over a former municipal police officer or a former member of a board.

Considering Section 25 in the context of the other references to this Commission in the Police Services Act we conclude that the function of this Commission is remedial and not punitive. Just as a modern disciplinary system is remedial and not punitive so is the function of this Commission.

By making the proposal which it did, and by acting upon it vigorously, the Board impliedly conceded that there had been serious problems with the management and administration of the Belleville Police Force.

The problems in question relate to the internal management and operation of the police force and do not seem to impinge directly upon the public or the service to the public. The members of the Belleville Police Force are to be commended for their dedication and ability to provide service in spite of the management problems.

On the 24th of June, 1993 more than 70 issues had been resolved or were in the process of resolution to the satisfaction of all parties. We were of the view that the Board ought to be given an opportunity to set matters right.

The three specific concerns raised by the Police Association on June 24th were in fact in the process of resolution but the general concerns relating to personnel issues were another matter. These concerns related directly to the "conduct and performance of duties of the Deputy Chief of Police" as specified in the Terms of Reference for this Inquiry.

As nothing was to be achieved by continuing to hear evidence with respect to issues which had been resolved with the assistance of the facilitator previously referred to, to the satisfaction of all parties, the Inquiry was adjourned to August 23rd for the purpose of hearing evidence relating to the "conduct and performance of duties of the Deputy Chief of Police".

In making our decision with respect to the proposal by the Board we took into consideration the fact that while public inquiries are a venting process and provide an opportunity for people to release long-standing emotions and feelings such inquiries, at the same time, can create long-standing, sometimes permanent, animosities and bitterness. In this context such inquiries have the potential to be destructive as well as constructive.

We feel compelled to comment upon two attempts to influence the manner in which this Inquiry was being conducted. The first was a letter dated May 3rd, 1993 to the Solicitor General, the Honourable David Christopherson, written by Mr. Robert Morrison, then President of the Police Association of Ontario. Mr. Morrison enclosed with that letter a letter which the Administrator of the Police Association of Ontario had written to the Chair of this Commission. Mr. Morrison concluded his letter to the Minister by saying:

"I would implore you to use your authority to ensure that the public and members of the Belleville Police Service receive the public airing they deserve in a manner consistent with the spirit and intent of the Act."

We find this letter regrettable because it necessarily implies that the Minister would risk embarrassing his government and endangering his seat at the Cabinet table by attempting to interfere in the proceedings of a tribunal. It also necessarily implies that this Commission is subject to political interference.

The second attempt was the letter which Mr. Morrison referred to from Mr. Connolly, the Administrator of the Police Association of Ontario, to the Chair of this Commission, also dated May 3, 1993. Mr. Connolly's letter is a seven-page submission with respect to how the Inquiry ought to be conducted.

We are of the view that this letter necessarily implies that this Commission, while engaged in an Inquiry, would hear submissions in private. One also wonders why it was copied to the Minister if not as some form of subtle threat, or intimidation.

The Commission issued summonses for Messrs. Morrison and Connolly and had them served in May requiring their appearance before the panel in Belleville in June. Both chose, at their peril, to ignore the summonses. We prefer not to speculate on why they adopted this potentially contemptuous behaviour and declined to make their submissions in public.

In any case, we accorded their submissions no weight.

THE INQUIRY - (PART II)

The Inquiry resumed on August 23rd, 1993 and concluded on February 4th, 1994. Public hearings were conducted on a total of 22 days; we heard sworn evidence from 20 witnesses and received 87 exhibits. As previously mentioned, the membership on the Belleville Police Services Board had completely changed by July of 1993 and Chief Begbie had retired.

We do not propose to comment on all the evidence that we heard nor on the all incidents that were described. We have selected particular incidents which we believe served to illustrate the way in which the Belleville Police Force was being administered and the manner in which Deputy Chief Tremble executed his duties.

DEPUTY CHIEF TREMBLE

Deputy Chief Wayne Tremble began his career as a cadet in 1966 with the Hanover Police Force. By 1973 he was Chief. He became Deputy Chief in Belleville in May of 1986.

Deputy Chief Tremble has some significant attributes that qualify him for a management position in a police organization. While in Hanover he participated in the creation of a Regional Communications System. When he left, Hanover handled the communications function for six or seven other police forces and twelve or thirteen volunteer fire departments.

Deputy Chief Tremble attempted to prepare the Belleville Police organization for the implementation of the Police Services Act. He foresaw that there would be many challenges facing police forces across the province with the proclamation of that Act. Accordingly, he undertook to create a new organization chart and to re-structure the Force to better meet the future. It apparently was not adopted by the Chief and the Board. He must have been very frustrated.

Despite his initiative and past success, however, we have concluded that Deputy Chief Tremble suffers a serious deficiency in an important area of management in that he is unable to communicate clearly either orally or in writing. The following are intended as examples only, intended to be illustrative but not exhaustive.

Constable Taylor

Constable Taylor attended a course at the Ontario Police College and was not successful. The College provided Deputy Chief Tremble with a certificate for Taylor, to be delivered to him upon successful completion of the examinations. Constable Taylor testified that the Deputy "... advised me that I had failed the course and that there was no certificate." V. 11 p. 1042. Obviously, the Deputy ought to have told Constable Taylor the truth that in fact there was a certificate in existence but that it could not be delivered to him until he successfully completed the course. Later, after the proclamation of the Freedom of Information and Protection of Privacy legislation, Constable Taylor made an application to see his personnel file which, of course, was granted. (We find it bizarre that an employee must use such public legislation to examine his own personnel file, but that was the fact.) With respect to that file, Constable Taylor testified that "... I found a photocopy of my certificate that had been granted to me by the Ontario Police College, indicating that I had successfully completed the course in 1989, the certificate that the Deputy had told me had not existed." V. 11 p. 1047-8. Constable Taylor believes that the Deputy lied to him.

Anne Brennan-Walsh

Inspector Hugh Brennen testified about a conversation he and Deputy Chief Tremble had relating to the marriage of Anne Brennan-Walsh, a civilian member of the Force (no relation). His evidence is:

"There was an informal request made. In 1990 or 1991, the Deputy engaged me in a conversation and, as a result of that conversation, I determined well _____

The direction of the conversation was such that, was Anne Brennan-Walsh legally married? He asked if I had attended the wedding and I advised that I had not. He requested that I speak with someone who had attended the wedding and ascertain and get back to him if she was, in fact, legally married ... I approached at least one person

whom I knew had attended the wedding and asked if, rather bizarrely, if Anne Brennan-Walsh was legally married and the response was 'yes' and I passed that back to the Deputy." V. 20 p. 2621.

Commission Counsel asked Deputy Chief Tremble "Did you ever make any inquiries as to her status?" (meaning the marriage of Brennan-Walsh) and the Deputy Chief's answer was "I made a comment. I recall making a comment that I didn't know she was married." V. 17 p. 2136. Deputy Chief Tremble was asked by Inspector Brennen in cross-examination "Did you ask a senior officer, Deputy, to confirm whether or not Anne Brennan-Walsh was legally married?" And his answer was "I don't recall that, Inspector. I don't know the significance of it. I can't answer that. I don't recall whether that was raised or ...".

We accept the evidence of Inspector Brennen without hesitation. If this had been a casual, informal comment about the marriage of an employee we could understand the Deputy not recalling. But it wasn't. It was a clear direct request to ascertain whether or not this employee was lawfully married. We find it difficult to accept that Deputy Chief Tremble does not recall, and must conclude that he was dissembling.

Self Audit

The 1988 inspection was conducted by the Commission's predecessor body, the Ontario Police Commission. The Advisor who did the inspection was Mr. Robert Russell. Prior to the inspection, an audit package was delivered to the Force with the expectation that they would perform an audit of their own operations and answer a series of questions. Deputy Chief Tremble discussed this issue in V. 16B p. 2000 ff. The package included a number of statements to which a response was required, one of which was "employees are evaluated and counselled at least annually". Deputy Chief Tremble answered "yes" although this was not true. His explanation, at P. 2001, was:

"If it said "all employees" I would suggest I would have to say no. It says "employees are evaluated" there was a system in place that covered predominately ... and it was fairly accurate, although occasionally there would be numbers of evaluations missed, but certainly the uniformed people within the platoon system were evaluated annually.

There were other sections of the service, including sworn members, such as detectives, plain clothes constables, people within the intelligence unit, people within the youth bureau, that certainly I didn't see annual evaluations performed."

Constable Noseworthy

Inspector Brennen had praised Constable Noseworthy's honesty, maturity, character and integrity which he had said were "all of the highest order". V. 16A p. 1796. Deputy Chief Tremble was referred to this assessment and asked for his comments. Those comments are found in V. 16B p. 2054. Following is that evidence:

"A. I would differ with him in some context.

Q. Well, assist me if you would. What do you mean by some 'context'?

A. Okay. In some context, I ... Constable Noseworthy or Acting Sergeant Noseworthy at this point in time, is a very sincere individual and for that aspect, I agree with it. I don't think that he paid attention and had knowledge of the deployment of his staff at times that he should have. I personally was out one evening and he didn't have a clue where his vehicles were. He didn't seem to know what was going on around him and as I recall ...

The chairman:

No no Deputy. The question doesn't relate to that. The question relates to what Inspector Brennen said with respect to integrity, honesty, character.

The witness:

There was nothing wrong with his character. I agree with his ... He had an excellent character. He is well received. I don't think, at all times, he's been honest so I disagree with the honesty".

Whatever Deputy Chief Tremble's intent, he was unable to make it clear to us. Perhaps he does not know the meaning of the word "character".

Deputy Chief Tremble was cross-examined by Constable Walker with respect to his opinion of Noseworthy's integrity. The evidence unfolded as follows:

"A. My interpretation of what transpired at the point in time of the questioning before the Board, you have to put it in the context and I've explained that, that I don't believe that he conveyed some truthful answers to the inquiries that were made and that was my interpretation. That's my opinion.

Q. Let's just take you back to that situation. Here you have Constable Noseworthy at home, he gets a sudden phone call to come into the station, he's presented before the Board, and we all know when a Sergeant calls you in the first thing you say is 'what the hell have I done wrong'? He's going before the Board, who is the boss of everybody, obviously he's going to be very nervous would you agree with that?

A. That's quite probable.

Q. And he opens the door and he walks in and here's the Board and all of a sudden he's barraged, or I wasn't there, but he was given certain questions to answer?

A. He was asked certain questions.

Q. And could it be fair, would you agree that possibly he might have misunderstood one of the questions?

A. That's possible.

Q. And if he misunderstood one of the questions, maybe he didn't give, in your opinion, the correct answer?

A. That's possible.

Q. And is it not true that later on there's meetings between you and Constable Noseworthy that clarified that he misunderstood the question?

A. I think that came up at subsequent tribunals or hearings as I recall. V. 17 p. 22ll ff.

It is impossible from Deputy Chief Tremble's testimony to discover what he really thinks of Constable Noseworthy's integrity. At one point he indicated that Constable Noseworthy "had an excellent character" but is less than honest.

With respect to the Deputy Chief's allegation that Acting Sergeant Noseworthy "didn't have a clue where his vehicles were", when the matter was pursued it turns out that the Deputy had visited the station one evening when Acting Sergeant Noseworthy was performing two jobs. He was filling the position of Patrol Sergeant, in which position he ought to have known where his vehicles were; he was also filling the position of Desk Sergeant, in which position he ought to have known the status of the calls for service. It ought to have been no surprise to Deputy Chief Tremble, or to anyone else, that Acting Sergeant Noseworthy was not able to perform two tasks at the same time.

Constable Jamieson

Lisa Begbie is the daughter of the former Chief. She had a dog which became involved in some sort of scrap with another dog and she called the police; Constable Jamieson responded. After the matter had been concluded, Ms. Begbie was dissatisfied and she filed a complaint about Constable Jamieson's conduct. The complaint was investigated and the Deputy reported the results to Lisa Begbie in a letter (Exhibit 23). Constable Jamieson understands that letter to be a criticism of his conduct and the Deputy maintains that it was not.

It was suggested to Deputy Chief Tremble in direct examination by Commission Counsel that the letter indicates that Constable Jamieson had failed to undertake his duties in an appropriate fashion and the Deputy responded "no I wouldn't agree with that". He was then read a short paragraph from the letter as follows:

"As a citizen, your police service failed to provide the professional level of service it should have under the circumstances".

It was suggested to the Deputy that that means that Jamieson failed to provide the professional level of service he should have and his answer was "no".

"No sir. Maybe I'm having difficulty with ... I said 'your police service failed' that means the service as a whole any officer could have went to that complaint, not just Constable Jamieson ... any officer could have attended that complaint".

He was then read another sentence from the letter: "The police officer failed to perform a statutory requirement" and asked whether that does not imply some failing on the part of Constable Jamieson and his answer was: "No. I don't believe I found any failing with his conduct you're taking a very narrow interpretation of my intent when I was writing this". See V. 17 p. 2107-8.

Another paragraph from the letter was read to Mr. Tremble:

"The officer may have taken a more serious approach to the initial complaint, but did not do so in this situation." V. 17 p. 2109.

Asked whether that does not mean that the officer ought to have taken a more serious approach, his answer was:

"No. When I'm looking at this I'm not suggesting he ought to have taken a more serious approach. I think Constable Jamieson took his duties seriously and did a lot to follow up and a lot of work ...".

After the letter had been sent, it came to the attention of Constable Jamieson who understood the letter (and we think reasonably) as a criticism of his conduct. He met with Deputy Chief Tremble for the purpose of discussing this criticism. When the Deputy was cross-examined by Constable Walker on behalf of the Police Association, he was referred to this meeting in the following terms:

"Q. And the conversation at that time, and correct me if I'm wrong, Deputy, you were saying that you fully supported Constable Jamieson in his actions and complimented him for the great job that he had done?

A. Yes I did, I believe ... I haven't changed my stance on that. V. 17 p. 2206.

Mr. Tremble's letter to the complainant would lead one to believe that Constable Jamieson's conduct was deficient yet the Deputy testified that he "fully supported Constable Jamieson".

We can only conclude that Deputy Chief Tremble has substantial difficulty in saying what he means or meaning what he says either orally or in writing.

Workers' Compensation

Another illustration of Deputy Chief Tremble's communication skills centres around claims by members of the Force for Workers' Compensation. The City of Belleville had suffered a penalty, or special assessment, of \$285,000.00, the police force being considered part of the City of Belleville for such purposes. Managers were naturally keen to reduce the claims for compensation but this alleged justification was never communicated. The employer's position with respect to the compensability of these injuries was never clearly communicated to the claimants.

The Deputy conceded "... it is quite common for us to object to claims through the adjudication process." V. 17 p. 2123.

One can readily understand why the members felt that their personal integrity was being attacked when such communications were forwarded to the Compensation Board and the employees not made aware of the position management was taking. It should be noted, however, that the collective agreement provides that when a member has a workers' compensation claim which is accepted, the member continues to receive full salary and the money paid by the Workers' Compensation Board is, in effect, paid to the employer.

Another serious misunderstanding arose concerning a compensation claim by Constable Jamieson and a telephone conversation between Deputy Chief Tremble and a person from the Compensation Board by the name of Haller. The Deputy told Jamieson that he had received a phone call from Haller. Jamieson subsequently discovered that Haller had received the phone call from Tremble. The fact seems to be that Mr. Haller had called Tremble but had not succeeded in reaching him and that Tremble had returned the call. The fact that this situation was not clearly communicated led to the not unreasonable belief that the Deputy had lied to Constable Jamieson.

Supervisors

Deputy Chief Tremble referred with some frequency to consulting with various members of the organization and seeking consensus before changes were implemented or new procedures adopted. He left the impression that he is a modern manager and has adopted modern management philosophies. However, a different philosophy appears clearly in Exhibit 35.

Constable Noseworthy had participated in a competition for promotion to the rank of Sergeant. He was appointed an Acting Sergeant with the expectation that if he were successful he would be confirmed in that rank and if not, that he would be returned to the rank of Constable. He received very positive performance appraisals from the other Sergeants and a Staff Sergeant. These appraisals were overruled by Deputy Chief Tremble and the Chief. (We will have more to say about Constable Noseworthy later in our report). Deputy Chief Tremble wrote a note to the supervisors laying out his criteria for a supervisor. From that memorandum he read the following:

"I feel we have good supervisors and managers in the future. They cannot start out diplomatic, sincere, nice, easygoing, lackadaisical, tactful and a host of other buzzwords."

Asked by Constable Walker what that means he answered:

"I was looking in general terms for some emphasis towards a supervisor looking specifically at being able to control and direct manpower and look at the issues at hand that are confronted day-to-day." V. 17 p. 2201.

Constable Walker then read another paragraph from the same memorandum:

"I would prefer to deal with aggressive, stern, harsh, abrupt, a driving force, a stickler for detail, etc. and while equally difficult to address as overzealous the product seems more viable." V. 17 p. 2202.

That quotation seems to us to express a management philosophy from another age.

Whatever Deputy Chief Tremble's management philosophy may be, he was unable to make it clear to us.

Communication as a Witness

Another example of Deputy Chief Tremble's communication skills, or lack thereof, arose while he was being cross-examined by Constable Walker. At V. 17 p. 2237 we find the following questions and answers:

"Q. ... out of these six issues, Deputy, how many of those issues were the Association successful in winning the awards?

A. I think the arbitrators in the various litigation came forward in the member. They were labour-related issues and there were different interpretations by the Board as to how to proceed and that's why we ended up going to the arbitration or the courts.

Q. Just to make it very simple. Win, lose and draw, the Association won five, management won one? I mean if we're talking about a score?

A. In those particular incidents, you're correct.

Q. And who was the legal representative for management in regards to all these issues?

A. I'm sorry you'd have to ... You'd have to tell me on that. The Board was predominately dealing with either a legal counsel or they were dealing with a firm in labour management, Bass & Associates.

Q. And who was the gentleman who usually represented them?

A. (Pause) from which group. Either the legal counsel or are we talking about the labour-relations consultant?

Q. Okay, just to make it simple, did Mr. Hayter ever represent the Commission in regards to these matters.

A. Oh yes, he was the Board's counsel.

Q. In fact, he represented the Board on all these issues am I not correct?

A. Yes as I indicated, he's the Board's counsel and was the Board's counsel throughout these issues.

We believe this short piece of transcript accurately illustrates Deputy Chief Tremble's inability to communicate directly, honestly and clearly. When testifying before us we noted his demeanour and his failure to respond to the questions asked. We have concluded that the failure to respond was not a result of an inability to understand the questions but rather something else.

Conclusion

Having considered all of the above very carefully, we are driven to the conclusion that Deputy Chief Tremble is incapable of performing the duties of his position in a satisfactory manner. Because of his inability, Deputy Chief Tremble requires close supervision, a level of supervision not available at the rank of Deputy Chief. Accordingly we direct that Deputy Chief Tremble be demoted to the rank of Inspector.

Section 25(4) of the Police Services Act provides that this Commission may demote a member of a police force "permanently or for a specified period". We do not wish to order that the demotion be permanent because we do not want to preclude the possibility of promotion some time in future should Deputy Chief Tremble's skills improve. Accordingly we order that he be demoted until the Chief and the Board determine that his performance meets a standard which would justify his elevation in rank.

DIRECTION

THAT DEPUTY CHIEF TREMBLE BE DEMOTED TO THE RANK OF INSPECTOR.

RECOMMENDATION - DEPUTY CHIEF

Having demoted Deputy Chief Tremble to the rank of Inspector, we are well aware of the fact that we have created four inspectors in an organization designed to accommodate only three. We recommend to Chief Klenavic and the Board that they give serious consideration to promoting one of the inspectors to the rank of Deputy Chief. If that can be done, the demotion of Deputy Chief Tremble will not disrupt the organizational structure.

OTHER PERSONNEL WHO WERE CRITICIZED

Constable Eliol (Sam) Noseworthy

Constable Noseworthy entered a process intended to lead to promotion to the rank of Sergeant. He was promoted to an Acting Sergeant with the expectation that eventually he would be confirmed in the rank of sergeant or returned to the rank of constable. His performance appraisals, done by the permanent sergeants and a Staff Sergeant were positive and supportive as was the assessment of Inspector Brennen. Inspector Brennen had forwarded these assessments to the Deputy Chief. Asked whether he had any concern with respect to Noseworthy's conduct, Inspector Brennen's answer was:

"No undue concern. No, none ... The concerns I might have had were minor in nature, things that could have been remedied by, and were remedied, I feel, by a short conversation perhaps." V. 16A p. 1795.

Inspector Brennen further testified "I would have confirmed him. I thought he had progressed favourably and was filling all my expectations for sure. I would have confirmed him in rank". Asked what qualities distinguished Acting Sergeant Noseworthy, his response was:

"His honesty, his maturity, his character and his integrity, all of the highest order, and a keen, keen interest in the job, his subordinates and the public". V. 16A p. 1796.

Constable Noseworthy, however, was not confirmed in the rank. The Chief and the Deputy took a different view of Constable Noseworthy's qualifications.

When his status was being considered by the Board, he was called before the Board unexpectedly and without knowing the reason.

The Deputy Chief indicated to us that the Board was concerned about Constable Noseworthy's participation in "The Breakfast Club". "The Breakfast Club" is a title that was applied to a custom that had arisen in the Force whereby on Sunday mornings all uniform officers on duty met at a local restaurant for breakfast and a social hour. Thus, during the period of this social gathering there were no patrol officers on the street. When the matter came to light it was investigated by Inspector Brennen who recommended informal discipline and that was imposed.

We have previously discussed the Deputy Chief's criticism of Constable Noseworthy's conduct when he was called before the Board which criticism we find to be unfair, if not unfounded (see Page 14).

There was also the matter of the Deputy's unfair criticism of Acting Sergeant Noseworthy on one evening when he didn't know the location of the patrol vehicles as discussed above at Page 13.

Constable Noseworthy believes that his career was progressing well until he swore an affidavit. Another officer was facing a disciplinary charge and perceived that Chief Begbie had a bias against him. He brought an application in court to have the Chief removed as Hearing Officer on the ground that there was a "reasonable perception of bias". Constable Noseworthy swore an affidavit in support of this application and he believes that that was the true cause of his non-confirmation.

There is a perception throughout the organization that Constable Noseworthy has not been treated fairly. We share that perception.

For the above reasons, we recommend to Chief Klenavic that he re-visit the question of Constable Noseworthy's qualifications for the rank of Sergeant and that he be invited to compete for the rank at the next opportunity if he be deemed suitable.

RECOMMENDATION

THAT CHIEF KLENAVIC RE-VISIT CONSTABLE NOSEWORTHY'S QUALIFICATIONS FOR THE RANK OF SERGEANT AND THAT HE BE INVITED TO COMPETE AT THE NEXT OPPORTUNITY IF HE BE DEEMED SUITABLE.

Inspector Merle Foster

Inspector Foster impressed us as an intelligent and capable member of the Force. When the Police Services Act was proclaimed it created an entirely new and different system for dealing with public complaints about the conduct of police officers. Prior to this, public complaints had been handled pursuant to a Board by-law. Inspector Foster was provided training with respect to the new legislation and assumed the role of Complaints Investigator that had previously been performed by Inspector Brennen.

The Police Association was very critical of Inspector Foster's investigations. They pointed particularly to two decisions following hearings in which Inspector Foster was criticized for not calling a sufficient number of witnesses. In one case the Presiding Officer was a police chief, in the other a judge. We are not satisfied that those criticisms are sound but, not having heard the trial evidence, cannot comment upon it.

In any event, if Inspector Foster did not fulfil his duties properly, it was not through any malice nor was it caused by negligence. He had a reason for everything he did and therefore, at most, he can be criticized for his judgement. The Chief and the Deputy ought to have reviewed very carefully the criticisms of Inspector Foster and, if they concluded that he had not acted properly, they ought to have taken steps to improve his performance.

In our opinion any complaint with respect to the handling of public complaints lies at the feet of the Chief and the Deputy Chief, not at those of Inspector Foster.

Inspector Brennen

Inspector Brennen was an active participant in the Inquiry. He gave evidence and participated as a representative of the Senior Officers Association. In particular, he cross-examined the Deputy Chief and made submissions on behalf of the Senior Officers Association at the end of the Inquiry. Since neither Chief Klenavic nor any representative of the Board was present during the latter part of the Inquiry, we wish to pass on to them our assessment of Inspector Brennen. We were impressed. Inspector Brennen is a highly competent police officer; he is universally respected and trusted within the organization. We share that respect and trust.

Constable John Walker

Constable Walker joined the Belleville Police Force in 1968 after approximately 2 1/2 years with the Metropolitan Toronto Police Force. He is now President of the Belleville Police Association.

Constable Walker undertook an extremely difficult task. He undertook to represent the Belleville Police Association while at the same time having some serious personal complaints about the management of the Force.

It was very difficult for Constable Walker to handle these two, sometimes conflicting, roles, and understandably so. At times Constable Walker became engrossed in his personal concerns and caused us some difficulty. For the most part, however, Constable Walker did a very good job. Indeed his cross-examination of the Deputy Chief and his final submissions were excellent pieces of work.

The Association

The members of the Police Association perceive that some of their members have been treated harshly while others have had their indiscretions ignored. Constable Walker expressed this at V. 16A p. 1964:

"Yes, I believe if I was any other officer a lot of these situations, I never would have been charged, and Mr. Hodgson (one of the Ministry Advisors) brought that out in the interviews, that there was targeted people on this Force and golden-haired boys."

Exhibit No. 87 is a series of character references with respect to Constable Walker and a summary of the Association's legal expenses relating to grievances and court actions. In 1991 the Association spent \$20,800.00 on legal fees, in 1992 the sum was \$30,391.00 and in 1993 \$35,832.00. The members believe that there was a conscious effort made by the Board, the Chief and the Deputy to "bankrupt" the Association. Whatever the intention may have been, the Association is impoverished. These legal expenses for the defence of members are, of course, paid by the members whereas the legal expenses incurred by the managers of the organization are paid by the taxpayer.

Mr. Bennett, on behalf of Chief Begbie, attempted to attack Constable Walker's credibility by taking him through his lengthy history of discipline. Constable Walker readily admits to that history although he believes some of the convictions were improperly registered as founded upon inaccurate evidence. Mr. Bennett took him right back to 1968. In November of that year Constable Walker, while on duty and in uniform, encountered a suspect who apparently was consuming alcohol in an automobile. After an oral altercation Constable Walker and the suspect went into a vacant lot or field where they had a fight. Walker got the best of the fight but then the suspect's colleague intervened, Walker fought with both of them, eventually coming out the loser. Constable Walker very openly admitted what he had done saying "obviously being a young officer I lost my cool ..." V. 16A p. 1959.

This is clearly not acceptable conduct for a police officer in 1994 but in 1968 we lived in a different culture. Constable Walker attempted to explain that culture when he said

"... back then police in Toronto, you kind of, you had control of the street and when I was confronted by two people who told me to fuck off, that astounded me, I didn't believe that took place. And a discussion led to things and he said "take off your fucking uniform and I'll do you" and I got carried away." V. 16A p. 1959.

In 1968 such conduct, if not condoned, at least did not result in any discipline. We were impressed by Constable Walker's candour.

Two of Constable Walker's experiences illustrate the quality of personnel management in the Belleville Police Force in the 1980's.

Constable Walker had been scheduled to work on New Year's Eve 1986/87. He failed to appear for duty and was charged with Neglect of Duty. On February 4th, 1987 the local newspaper carried a brief article reporting that Constable Walker had been charged with Neglect of Duty. At the same time there were two Metro Toronto police officers charged with Neglect of Duty, the allegation being that they had been consorting with a female in an underground parking garage while on duty. Constable Walker asked Chief Begbie to issue a news release clarifying that Walker's alleged misbehaviour was failing to report for duty. He was concerned that members of the public might think that his conduct might be similar to the allegations against the Metro Toronto officers. The Chief refused to do that and so Constable Walker did it on his own, explaining to the local news organizations what the alleged neglect of duty was. He was charged with another disciplinary offence as a result of this. He was convicted and ordered to resign within seven days or be dismissed. Constable Walker appealed to the Board of Commissioners of Police and subsequently to the Ontario Police Commission. At that time the governing legislation was the Police Act and Regulation 791 under that Act provided the disciplinary mechanism for Ontario's police forces. Section 27 of that Regulation provided that:

"No chief of police, constable or other police officer is subject to any penalty under this Part except after a hearing and final disposition of a charge on appeal as provided by this Part, or after the time for appeal has expired, ..."

Notwithstanding the law, Constable Walker was fired and his salary, of course, stopped. His appeal to the Ontario Police Commission was heard on November 29th, 1989 and a decision rendered on the 15th of March, 1990. The Commission quashed the penalty imposed at trial and ordered that Constable Walker be reduced in rank from First Class Constable to Second Class Constable for a period of six months and that he then be re-instated. V. 16A p. 1858.

Constable Walker was re-instated but the Board balked at paying him for the eleven months that he was unlawfully unemployed. "The Force felt that they didn't have to pay me for the time I was off, eleven months, and it went before Justice Byers on April 27th, 1991." V. 16A p. 1859. He went on to say "Yes, it went to Justice Byers on April 27th, 1991 and he ruled that I was still an employee of the Belleville Police Force and that I was entitled to all back pay and benefits". V. 16A p. 1860. Such visits to the courts are not inexpensive. Constable Walker testified that "My legal fees were \$16,000.00 approximately, which I paid myself." V. 16A p. 1861.

In the Spring of 1991 Mr. Justice Byers ordered that Constable Walker be paid the eleven months salary. On December 14th, 1993 Constable Walker testified "I just received it a couple of months ago".

The other incident that we want to address occurred on the 26th of September 1991. Constable Walker was scheduled to be installed as President of the Police Association on that evening. At about 2:30 that afternoon Constable Walker was served with six disciplinary charges under the Police Services Act. V. 16A p. 1962. Why the managers of the organization would complicate their lives and make their jobs more difficult than they need be by the timing of the laying of these charges, escapes our imagination. Not surprisingly, the members of the Association took this as a personal insult and it exacerbated the already difficult relationship between the Police Association and the Board, the Chief and the Deputy. Constable Walker believes that this act was the ultimate trigger that caused a group of police officers' spouses, and some others, to picket the police station. In describing this picketing, Constable Walker said "... it obviously brought attention to our problems and, as a result of their picketing, that's why we're here today." V. 16A p. 1963.

We have referred to these incidents because they illustrate the poisonous atmosphere existing in the Belleville Police Force prior to the launching of this Inquiry.

Constable Giouroukos

On February 4th, 1994, the last sitting day of this Inquiry, the Belleville Police Association was represented by Mr. Chris Dassios, a Solicitor who had been retained by the Police Association of Ontario to assist the Belleville Police Association.

Mr. Dassios made a motion asking the panel to hear further evidence.

The application was heard in camera because we were of the opinion that, because of the nature of the matters to be disclosed, the desirability of avoiding their disclosure in the interests of the persons affected, and the public interest, outweighed the desirability of adhering to the principle that proceedings be open to the public.

The evidence which the Association sought to call related to a series of allegations dating from 1989, made by one female constable against another member or members of the Association. Mr. Dassios outlined to us very clearly the evidence that he sought to tender.

Having heard submissions on the motion we then adjourned to consider the matter.

Having given the matter serious consideration we concluded that for us to hear the evidence would add nothing to our understanding of the administration of the Belleville Police Force as it has been or as it is now. We felt that, at this time, we had sufficient evidence to clearly establish the quality of the administration of the Belleville Police Force and to permit us to achieve the objectives specified in the Terms of Reference. Accordingly we ruled against Mr. Dassios and elected to close the Inquiry without hearing this evidence.

The allegations made by Mr. Dassios are however very serious and we are not going to ignore them. We took the complaints of this constable as a separate complaint and have had these complaints investigated through the assistance of the Ontario Provincial Police, Professional Standards Branch.

There are senior officers on the Belleville Police Force who are quite capable of investigating such allegations but in view of the ill will that has arisen on the part of some members of the Police Association we thought it preferable to have this investigation conducted by someone from outside the organization. We are anxious that the investigation be seen to be objective and impartial.

This investigation was done by Sergeant Major G.T. Miller of the OPP Professional Standards Branch. The complaints of Constable Giouroukos can be described as six allegations, one of them involving three separate incidents. Sergeant Major Miller made six recommendations, four in the nature of disciplinary action, one relating to deployment of individual persons and one relating to performance appraisals. We are confident that Chief Klenavic will deal with these recommendations appropriately.

STATUS REPORT

When we undertook this Inquiry we did so for the purpose of resolving problems in the organization. We remain determined to solve those problems. For this reason we did not want to close the Inquiry without being satisfied that the problems have been solved or that we can, through our report, solve them.

At the conclusion of the hearings, therefore, we asked the Ministry of the Solicitor General and Correctional Services to conduct an inspection of the Belleville Police Force and to provide us with a status report.

This inspection was conducted on April 18-21, 1994 by Police Services Advisors, Richard St. Pierre and Maurice Hodgson of the Police Support Programs Branch, Ministry of the Solicitor General and Correctional Services.

This report was delivered to, and discussed with, Chief David Klenavic on June 20th, 1994.

The report indicates that there has been a complete and substantial change in the management philosophy of the Belleville Police Service. Chief Klenavic has adopted a modern co-operative management system. With respect to the recommendations made in the Ministry audit of 1992, all have been accepted and are fully implemented or in the process of being implemented. There is, of course, some hesitation on Chief Klenavic's part to make binding changes so long as our report of this Inquiry remains outstanding. It is our view that once our report is in the hands of Chief Klenavic and the Police Services Board that the restructuring of the administration of the Belleville Police Service will be completed and the problems solved.

DATED THIS 5th DAY OF JULY, 1994.

Karl R. Fuller

Raymond G. Leclair

per W.D. Drinkwalter
W.D. Drinkwalter, Q.C., Chairman

TERMS OF REFERENCE

Pursuant to Section 25 of the Police Services Act the Ontario Civilian Commission on Police Services may, at the Solicitor General's request, ... or of its own motion, investigate, inquire into and report on the conduct or performance of duties of a municipal chief of police or other municipal police officer, ... or a member of a board; the administration of a municipal police force.

The Commission has received complaints about the administration and management of the Belleville Police Force from the Belleville Police Association and from members of the public. The Ministry of the Solicitor General, as a result of these complaints, conducted an audit of the Belleville Police Force and filed a report. The Belleville Police Services Board responded to this report and provided this Commission with a copy of its response. Following this the Solicitor General wrote to this Commission indicating that his Ministry "continues to have serious concerns with respect to the administration and management of the Belleville Police Force" and requesting that this Commission "investigate, inquire into and report on the Belleville Police Force".

The Ontario Civilian Commission on Police Services will investigate, inquire into and report on the administration of the Belleville Police Force including:

1. The conduct and performance of duties of the Chief of Police.
2. The conduct and performance of duties of the Deputy Chief of Police
3. The conduct and performance of duties of the members of the Belleville Police Services Board.

APPENDIX II

The Police Services Board has requested a major regional police force to provide a senior officer to the Board to act as an advisor and facilitator with respect to outstanding issues within the Belleville Police Service, and in particular human resource related matters.

The facilitator will meet with the parties to the Inquiry separately, and then collectively, in an effort to shape a consensus concerning the resolution of those outstanding issues, including

- (a) the selection process, that is the hiring process;
- (b) the promotion process;
- (c) the evaluation process, including statements of duties and responsibilities;
- (d) the evaluation process as applied to the Chief and Deputy Chief's position;
- (e) personnel files, including rights of access and Municipal Freedom of Information and Protection of Privacy Act;
- (f) such other related matters as he or she may determine or the Board may direct.

The facilitator will report on his or her progress, and any recommendations made, at all regularly scheduled meetings of the Police Services Board, and the Board, in turn, will advise Commission counsel, monthly, in writing, of the progress being made.

Any recommendations of the facilitator are not binding on any party. The fact that the facilitator is unable to obtain a consensus will not preclude implementation by the Police Services Board of any of the facilitator's recommendations.

The Inquiry will reconvene on June 24, 1993 so that the progress made may be reported, unless the Police Services Board is unable to secure the services of a facilitator until after April 30, 1993, in which case a single day is to be scheduled as soon as possible within 6 weeks of the facilitator's arrival.

The Police Services Board welcomes any assistance which the Ministry of the Solicitor General can provide to it in connection with the search for a new Chief of Police.

March 29, 1993

Amended March 30, 1993

SELECTED SECTIONS FROM THE POLICE SERVICES ACT

- 5.(4) With the Commission's approval, the municipality may adopt a different method of providing police services.
- 6.(3) The agreement does not take effect until the Commission has approved the organization of the amalgamated police force.
- 8.(1) A municipality to which subsection 4(1) (obligation to provide police services) does not apply may, with the Commission's approval, establish and maintain a police force.
- 9.(1) If the Commission finds that a municipality to which subsection 4(1) applies is not providing police services, it may request that the Commissioner have the Ontario Provincial Police give assistance.
 - (2) If the Commission finds that a municipal police force is not providing adequate and effective police services or is not complying with this Act or the regulations, it may communicate that finding to the board of the municipality and direct the board to take the measures that the Commission considers necessary.
 - (3) If the board does not comply with the direction, the Commission may request that the Commissioner have the Ontario Provincial Police give assistance.
 - (4) In any area for which a municipality is required to provide police services, the Crown Attorney may request that the Commissioner have the Ontario Provincial Police give assistance.
 - (5) A board may, by resolution, request that the Commissioner have the Ontario Provincial Police give assistance.
 - (6) A municipal chief of police who is of the opinion that an emergency exists in the municipality may request that the Commissioner have the Ontario Provincial Police give assistance.
 - (7) A chief of police who makes a request under subsection (6) shall advise the chair of the board of the fact as soon as possible.

- (8) When a request is made under this section, the Commissioner shall have the Ontario Provincial Police give such assistance as he or she considers necessary.
 - (9) The Commissioner shall certify the cost of the services provided under this section by the Ontario Provincial Police and, unless the Solicitor General directs otherwise, the municipality shall pay the amount to the Treasurer of Ontario.
 - (10) The amount may be deducted from any grant payable to the municipality out of provincial funds or may be recovered by a court action, with costs, as a debt due to Her Majesty.
- 12.(1) With the Commission's approval, the costs incurred by a municipality in providing police services may be paid by levying different rates for different areas defined by the municipal council or by levying rates in some but not all areas.
- (2) With the Commission's approval, the municipal council may grant a total or partial exemption from a rate or rates levied under subsection (1) to lands and buildings used exclusively for farming purposes.
- 22.(1) The Commission's powers and duties include,
- (a) if the Solicitor General advises the Commission that a board or municipal police force is not complying with prescribed standards of police services,
 - (i) directing the board or police force to comply, and
 - (ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23(1);
 - (b) if the Solicitor General advises the Commission that a board or municipal chief of police is not complying with the requirements of this Act and the regulations respecting employment equity plans,
 - (i) directing the board or chief of police to comply, and
 - (ii) if the Commission considers it appropriate, taking measures in accordance with subsection 23(2);

- (c) conducting investigations with respect to municipal police matters under section 25;
 - (d) conducting inquiries into matters relating to crime and law enforcement under section 26;
 - (e) inquiring into any matter regarding the designation of a municipality under subsection 4(7) (police services in villages and townships) and, after a hearing, making recommendations to the Solicitor General;
 - (f) hearing and disposing of appeals by members of police forces in accordance with Part V.
- (2) When the Commission conducts a hearing, investigation or inquiry, it has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the proceeding as if it were an inquiry under that Act.
 - (3) At the Commission's request, the Solicitor General may appoint counsel to assist the Commission in a hearing, investigation or inquiry.
- 23.(1) If the Commission is of the opinion, after holding a hearing, that a board or municipal police force has flagrantly or repeatedly failed to comply with prescribed standards of police services, the Commission may take any of the following measures or any combination of them:
- 1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
 - 2. Removing the chief of police, one or more members of the board, or the whole board from office.
 - 3. Disbanding the police force and requiring the Ontario Provincial Police to provide police services for the municipality.
 - 4. Appointing an administrator to perform specified functions with respect to police matters in the municipality for a specified period.

- (2) If the Commission is of the opinion, after holding a hearing, that a board or municipal chief of police has failed to comply with the requirements of this Act and the regulations respecting employment equity plans, the Commission may take any of the following measures or any combination of them:
 1. Suspending the chief of police, one or more members of the board, or the whole board, for a specified period.
 2. Removing the chief of police, one or more members of the board, or the whole board from office.
 3. Appointing an administrator to perform specified functions with respect to employment equity, recruitment and promotion in the police force for a specified period.
- (3) If the Commission suspends the chief of police or members of the board who are entitled to remuneration under subsection 27(12), it shall specify whether the suspension is with or without pay.
- (4) The Commission shall not take measures under subsection (2) with respect to the failure of a chief of police to meet specific goals or timetables contained in the employment equity plan if the Commission finds that the chief of police has made all reasonable efforts to meet them.
- (5) An administrator appointed under paragraph 4 of subsection (1) or paragraph 3 of subsection (2) has all the powers necessary for the performance of his or her functions.
- (6) If the Commission suspends or removes the chief of police, it may appoint a person to replace him or her.
- (7) The parties to the hearing are the chief of police, the board, any member of the board that the Commission designates and, if the Commission so directs, the association or associations representing members of the police force.
- (8) The Commission may add parties at any stage of the hearing on the conditions it considers proper.

- (9) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.
 - (10) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.
 - (11) A party may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.
 - (12) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.
 - (13) An appeal may also be made from a finding that a chief of police has made all reasonable efforts to meet the specific goals and timetables contained in an employment equity plan.
 - (14) If the consent of the Attorney General is sought within thirty days of the Commission's decision and is given, a person who is not a party may appeal under subsection (13) as if he or she were a party.
- 24.(1) The Commission may make an interim order under subsection 23(1), without notice and without holding a hearing, if it is of the opinion that an emergency exists and that the interim order is necessary in the public interest.
- (2) The Commission shall not remove a person from office or disband a police force by means of an interim order.
- 25.(1) The Commission may, at the Solicitor General's request, at a municipal council's request or of its own motion, investigate, inquire into and report on,
- (a) the conduct or the performance of duties of a municipal chief of police or other municipal police officer, an auxiliary member of a municipal police force, a special constable, a by-law enforcement officer or a member of a board;

- (b) the administration of a municipal police force;
 - (c) the manner in which police services are provided for a municipality;
 - (d) the police needs of a municipality.
- (2) The cost of an investigation conducted at a council's request shall be paid by the municipality, unless the Solicitor General directs otherwise.
- (3) The Commission shall communicate its report of an investigation under subsection (1) to the Solicitor General at his or her request and to the board or council at its request, and may communicate the report to any other person as the Commission considers advisable.
- (4) If the Commission concludes after a hearing that a member of a police force is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may direct that the member be,
 - (a) demoted as the Commission specifies, permanently or for a specified period;
 - (b) dismissed; or
 - (c) retired, if the member is entitled to retire.
- (5) If the Commission concludes, after a hearing, that a member of a board is guilty of misconduct or is not performing or is incapable of performing the duties of his or her position in a satisfactory manner, it may remove or suspend the member.
- (6) A member of a police force or of a board on whom a penalty is imposed under subsection (4) or (5) may appeal to the Divisional Court within thirty days of receiving notice of the Commission's decision.
- (7) An appeal may be made on a question that is not a question of fact alone, or from a penalty, or both.

- (8) If the Commission suspends a member of a board or removes him or her from office, the municipal council or the Lieutenant Governor in Council, as the case may be, shall appoint a person to replace the member.
- (9) A member who has been removed shall not subsequently be a member of any board, and a member who has been suspended shall not be reappointed during the period of suspension.
- 39.(4) If the council does not approve the board's estimates or disagrees with the board on the number of members of the police force that is adequate or the equipment and facilities that are adequate, the Commission shall determine the question after a hearing.
- 40.(1) A board may terminate the employment of a member of the police force for the purpose of abolishing the police force or reducing its size if the Commission consents and if the abolition or reduction does not contravene this Act.
 - (2) The Commission shall consent to the termination of the employment of a member of the police force under subsection (1) only if,
 - (a) the member and the board have made an agreement dealing with severance pay or agreed to submit the matter to arbitration; or
 - (b) the Commission has made an order under subsection (3).
 - (3) If the member and the board do not make an agreement dealing with severance pay and do not agree to submit the matter to arbitration, the Commission, if it is of the opinion that it would be appropriate to permit the abolition of the police force or the reduction of its size, may order the member and the board to submit the matter to arbitration and may give any necessary directions in that connection.
 - (4) Section 124 applies to an arbitration referred to in this section with necessary modifications.

- 47.(5) A member of a police force who is discharged or retired under subsection (2) or (4) may appeal to the Commission by serving a written notice on the Commission and on the board or the Commissioner, as the case may be, within thirty days of receiving notice of the decision.
- (6) The Commission may confirm, alter or revoke the decision or may require the board or Commissioner, as the case may be, to rehear the matter.
- (7) The Commission shall promptly give written notice of its decision, with reasons, to the appellant and to the board or Commissioner, as the case may be.
- (8) No member of the Commission shall participate in the decision unless he or she was present throughout the hearing of the appeal and, except with the consent of the appellant, no decision of the Commission shall be given unless all members who were present throughout the hearing participate in the decision.
- 52.(1) With the Commission's approval, a board may appoint auxiliary members of the police force.
- (2) If the board suspends or terminates the appointment of an auxiliary member of the police force, it shall promptly give the Commission written notice of the suspension or termination.
- (3) The Commissioner may appoint auxiliary members of the Ontario Provincial Police.
- (4) An auxiliary member of a police force has the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the chief of police.
- (5) The chief of police may authorize an auxiliary member of the police force to perform police duties only in special circumstances, including an emergency, that the police officers of the police force are not sufficiently numerous to deal with.
- (6) A person appointed to be an auxiliary member of a police force shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

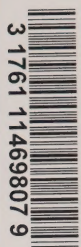
SPECIAL CONSTABLES

- 53.(1) With the Commission's approval, a board may appoint a special constable to act for the period, area and purpose that the board considers expedient.
- (2) With the Commission's approval, the Commissioner may appoint a special constable to act for the period, area and purpose that the Commissioner considers expedient.
- (3) The appointment of a special constable may confer on him or her the powers of a police officer, to the extent and for the specific purpose set out in the appointment.
- (4) A special constable shall not be employed by a police force to perform on a permanent basis, whether part-time or full-time, all the usual duties of a police officer.
- (5) Subsection (4) does not prohibit police forces from employing special constables to escort and convey persons in custody and to perform duties related to the responsibilities of boards under the *Court Security Act*.
- (6) The power to appoint a special constable includes the power to suspend or terminate the appointment, but if a board or the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
- (7) The Commission also has power to suspend or terminate the appointment of a special constable.
- (8) Before a special constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the board, Commissioner or Commission, as the case may be, may determine.
- (9) A person appointed to be a special constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.

FIRST NATIONS CONSTABLES

- 54.(1) With the Commission's approval, the Commissioner may appoint a First Nations Constable to perform specified duties.
- (2) If the specified duties of a First Nations Constable relate to a reserve as defined in the *Indian Act* (Canada), the appointment also requires the approval of the reserve's police governing authority or band council.
 - (3) The appointment of a First Nations Constable confers on him or her the powers of a police officer for the purpose of carrying out his or her specified duties.
 - (4) The Commissioner shall not suspend or terminate the appointment of a First Nations Constable whose specified duties relate to a reserve without first consulting with the police governing authority or band council that approved the appointment.
 - (5) The power to appoint a First Nations Constable includes the power to suspend or terminate the appointment, but if the Commissioner suspends or terminates an appointment, written notice shall promptly be given to the Commission.
 - (6) The Commission also has power to suspend or terminate the appointment of a First Nations Constable.
 - (7) Before a First Nations Constable's appointment is terminated, he or she shall be given reasonable information with respect to the reasons for the termination and an opportunity to reply, orally or in writing as the Commissioner or Commission, as the case may be, may determine.
 - (8) A person appointed to be a First Nations Constable shall, before entering on the duties of his or her office, take oaths or affirmations of office and secrecy in the prescribed form.
- 63.(8) The police officer may appeal to the Commission from the board's decision by serving a notice of appeal on the Commission, the board and the chief of police within thirty days of receiving notice of the decision.

- 64. Instead of hearing a police officer's appeal under section 63, the board may, on its own initiative or on the application of the police officer or the chief of police, require the Commission to hear the appeal.
- 65. A member of the Ontario Provincial Police on whom a penalty is imposed under section 61 may appeal to the Commission by serving a written notice on the Commission and the Commissioner within thirty days of receiving notice of the decision.
- 116.(1) If there is a dispute as to whether a person is a member of a police force or a senior officer, any affected person may apply to the Commission to hold a hearing and decide the matter.
- (2) The Commission's decision is final.
- 118.(3) Bargaining, conciliation and arbitration may be carried on with more than two categories within a police force (apart from senior officers) only if the Commission has approved the creation of the categories.



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